

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

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In Re: Earl Porter, JR.,

Case No. 10-40345  
Chapter 7  
Hon: Tucker

Debtor.

**Motion To Reopen Chapter 7 Bankruptcy Case  
In Order To File An Adversary Complaint Against Unicare  
For Its Violation of the Sec. 524 Discharge Injunction**

Now Comes, Debtor, Earl Porter by and through his attorneys, Neal J. Brand & Associates, and requests upon this Honorable Court as follows:

1. Debtor filed for Chapter 7 Bankruptcy on January 7, 2010.
2. Debtor listed all of his debts and obligations in his Chapter 7 petition.
3. Debtor's chapter 7 petition listed monies and debt owed to Unicare for an overpayment in the approximate amount of \$42,000.00
4. Debtor received a discharge of debt from Honorable Thomas J. Tucker, on April 13, 2010.
5. Debtor's original Unicare payment arose from a back injury which occurred on September 14, 2004
6. Debtor missed approximately 3 years of work because of this injury
7. Debtor returned to work April 30, 2008.
8. Approximately 7 Months after Debtor received his bankruptcy discharge he was shot and sustained a life threatening injury. This new injury occurred on Jan 30, 2011.
9. This new injury was completely unrelated to the injury which occurred in 2004.
10. Debtor applied to Unicare for benefits pursuant to his UAW union contract
11. Debtor expected to receive his Unicare benefits as he has continuously been paying into the insurance fund.
12. Unicare declined to pay the Debtor his benefits and has cited the Doctrine of Recoupment.
13. Debtor argues that the doctrine of Reoupment is inapplicable in the instant case as the transaction which Debtor is trying to collect his benefits from arose out of an entirely different transaction than the Debtor's instant transaction.
14. Any money owed to Unicare for the 2004-2008 overpayment was discharged in Debtors 2010 Bankruptcy proceeding.

15. Debtor seeks repayment of 8 weeks of missed Unicare Payments and attorney's fees in the amount of \$200.00 hour.

16. Debtor also seeks damages in the amount of \$10,000.00 for injuries suffered in having to bring forth this motion.

17. That Concurrence from Creditor's Attorney was sought by movant's attorney's office most recently on April 11, 2011 and concurrence was not able to be obtained.

Dated April 13, 2011

Respectfully Submitted,  
Neal J. Brand & Assoc, PLLC

  
~~/s/ Neal J. Brand (P60137)~~

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**ORDER TO REOPEN CHAPTER 7 BANKRUPTCY CASE**

Upon the reading and filing of Attorney for Debtors, Neal J. Brand & Associates Motion To Reopen Chapter 7 Bankruptcy Case in Order to File an Adversary Complaint Against Unicare for its Violation of the Sec. 524 Discharge Injunction and no objections having been filed to the said Petition, and a Certificate of No Response having been filed with this Court;

IT IS HEREBY ORDERED:

- a. That the Debtor's Chapter 7 Bankruptcy Case be reopened.